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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220222-0052]

RIN 0648-BL15

Fisheries of the Northeastern United States; Atlantic Spiny Dogfish Fishery; 2022

Specifications and Trip Limit Adjustment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes Atlantic spiny dogfish specifications for the 2022 fishing year, and an adjustment to the commercial trip limit, as recommended by the Mid-Atlantic and New England Fishery Management Councils. This action is necessary to establish allowable harvest levels and other management measures to prevent overfishing while enabling optimum yield, using the best scientific information available. This rulemaking also informs the public of the proposed fishery action and provides an opportunity for comment.

DATES: Comments must be received by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0008, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to <https://www.regulations.gov>, and enter “NOAA-NMFS-2022-0008” in the Search box;
2. Click the “Comment” icon, complete the required fields; and
3. Enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). If you are unable to submit your comment through www.regulations.gov, contact Cynthia Ferrio, Fishery Policy Analyst, Cynthia.Ferrio@noaa.gov.

Copies of the Supplemental Information Report (SIR) and other supporting documents for this action are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at <http://www.mafmc.org/supporting-documents>.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Policy Analyst, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic and New England Fishery Management Councils jointly manage the Atlantic Spiny Dogfish Fishery Management Plan (FMP), with the Mid-Atlantic Council acting as the administrative lead. Additionally, the Atlantic States Marine Fisheries Commission manages the spiny dogfish fishery in state waters from Maine to North Carolina through an interstate fishery management plan. The federal FMP requires the specification of an acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and a coastwide commercial quota. These limits and other related management measures may be set for up to five fishing years at a time, with each fishing year running from May 1 through April 30. This action proposes status quo specifications for fishing year 2022, and an increased commercial trip limit for the Atlantic spiny dogfish fishery, as recommended by the Councils.

The spiny dogfish fishery is currently operating under multi-year specifications for fishing years 2021 and 2022 based on a 2020 assessment update and the Mid-Atlantic Council's updated risk policy. The 2021 trawl survey conducted by the Northeast Fisheries Science Center showed little change from recent years in the spiny dogfish stock. As a result, the Mid-Atlantic Council's Scientific and Statistical Committee (SSC), the Spiny Dogfish Monitoring Committee, and the Joint Spiny Dogfish Committee (which includes members from both Councils) all agreed that no changes are necessary to the previously-projected specifications for fishing year 2022. Upon review, both Councils also recommended status quo catch specifications for 2022.

During meetings of the Spiny Dogfish Advisory Panel and Committees in 2021, industry representatives requested an increase in the federal commercial trip limit as a way to provide more economic stability and opportunity to fully achieve the commercial quotas provided to the fishery. The commercial fishery has consistently harvested less than 60 percent of the coastwide quota in the past five years (with one exception in 2019 when there was a substantially smaller quota). Changes to the trip limit have been considered in recent years without action to this point. The different management committees decided that a moderate increase of 25 percent could provide the requested flexibility and opportunity while minimizing risk of negative impacts to the resource or markets. Both Councils reviewed and approved this decision at their respective meetings in October and December 2021, and recommended increasing the 6,000-lb (2,722-kg) commercial trip limit to 7,500 lb (3,402 kg) through this proposed action.

Proposed Measures

This action proposes the Councils' recommendations for status quo 2022 spiny dogfish specifications (Table 1), and a 25-percent increase to the commercial trip limit from 6,000 lb (2,722 kg) per trip to 7,500 lb (3,402 kg) per trip. These proposed measures are consistent with the SSC, Joint Committee, and Monitoring Committee recommendations (Table 1).

Table 1 -- Proposed Status Quo Spiny Dogfish Fishery Specifications for Fishing Year 2022

	2021-2022	
	Million lb	Metric tons
ABC	38.58	17,498
ACL = ACT	38.48	17,453
TAL	29.68	13,461
Commercial Quota	29.56	13,408

There is a research track stock assessment in progress for Atlantic spiny dogfish. This assessment is expected to inform development of the next set of specifications beginning in fishing year 2023.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Councils reviewed the proposed regulations for this action and deemed them necessary and appropriate to implement consistent with section 303(c) of the Magnuson-Stevens Act.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The Councils conducted an evaluation of the potential socioeconomic impacts of the proposed measures in conjunction with a SIR. The proposed action would maintain status quo specifications for fishing year 2022, and would increase the vessel possession limit of spiny dogfish per trip by 25 percent.

This proposed action would affect entities that participate in commercial spiny

dogfish fishing (those that hold commercial spiny dogfish permits). Vessels may hold multiple fishing permits and some entities own multiple vessels and/or permits.

According to the Northeast Fisheries Science Center commercial ownership database, 1,934 separate vessels held commercial spiny dogfish permits in 2020, the most recent year of fully available data. A total of 1,513 commercial entities owned those permitted vessels, and of those entities, 1,504 are categorized as small businesses, and 9 as large businesses.

The proposed specifications are expected to provide similar fishing opportunities when compared to the previous fishing year as no annual catch limits are changing. The trip limit adjustment is expected to provide increased operational flexibility and opportunity to fully harvest the coastwide quota without increasing risk to the resource or substantially changing fishing behavior. Entities issued a commercial spiny dogfish permit may experience a slight positive impact related to the potential for higher landings each trip. However, effort in the fishery remains dependent on market conditions and pricing rather than management measures such as trip limits. As such, the proposed action is not expected to have an impact on the way the fishery operates or the revenue of small entities.

Overall, analyses indicate that the overall economic impact of this proposed action is expected to be slightly positive, and that these measures are not expected to substantially change fishing effort, the risk of overfishing, prices/revenues, or fishery behavior. Therefore, the Councils concluded, and NMFS agrees, that this action would not have a significant adverse impact on a substantial number of small businesses. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This action would not establish any new reporting or record-keeping requirements.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 22, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.235, revise paragraph (a)(1) to read as follows:

§ 648.235 Spiny dogfish possession and landing restrictions.

(a) * * *

(1) Possess up to 7,500 lb (3,402 kg) of spiny dogfish per trip; and

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